

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
NORTHEASTERN DIVISION

UNIVERSITY OF NORTH DAKOTA,

Plaintiff,

vs.

JAMES HARDIE RESEARCH PTY, LTD.,  
an Australian Corporation,  
JAMES HARDIE BUILDING PRODUCTS, INC.,  
a Nevada Corporation,  
JAMES HARDIE INT'L FINANCE B.V.,  
a Netherlands Corporation,  
certain FURNACE EQUIPMENT,  
certain FURNACE EQUIPMENT DESIGNS,  
certain FURNACE SPECIFICATIONS, and DOES  
1-10,

Defendants.

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JAMES HARDIE BUILDING PRODUCTS, INC.  
and JAMES HARDIE INT'L FINANCE B.V.,

Plaintiffs,

vs.

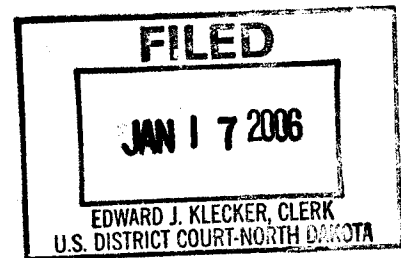
ENERGY & ENVIRONMENTAL RESEARCH  
CENTER,

Defendants.

Civil Action No.: A2-04-152  
Honorable Ralph R. Erickson  
Magistrate Judge Karen K. Klein

**UNIVERSITY OF NORTH  
DAKOTA'S NOTICE OF MOTION  
AND MOTION TO DECLASSIFY  
"CONFIDENTIAL – ATTORNEYS'  
EYES ONLY" DESIGNATION**

Civil Action No.: A2-05-44



PLEASE TAKE NOTICE that the University of North Dakota and its division, the Energy & Environmental Research Center (collectively "UND/EERC"), hereby move the Court pursuant to Rules 26(c), 26(g) and 37(a)(4), Federal Rules of Civil Procedure, to declassify James Hardie Research Pty, Ltd., et al.'s "Attorneys' Eyes Only" designation, to award UND/EERC its reasonable attorneys' fees and costs in preparing its motion, and to award any other relief that the Court deems appropriate.

Date: January 13, 2006.



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ATTORNEYS FOR THE UNIVERSITY OF NORTH  
DAKOTA

## AFFIDAVIT OF SERVICE VIA E-MAIL AND U.S. MAIL

[illegible]

Lisa A. Acierno, City of Minneapolis, County of Hennepin, State of Minnesota, being duly sworn upon oath, says that on the 13<sup>th</sup> day of January, 2006, she served the following:

- (1) University of North Dakota's Notice of Motion and Motion to Declassify "Confidential – Attorneys' Eyes Only" Designation
- (2) University of North Dakota's Memorandum of Law in Support of Motion to Declassify "Confidential – Attorneys' Eyes Only" Designation
- (3) [Proposed] Order on University of North Dakota's Motion to Declassify "Confidential – Attorneys' Eyes Only" Designation
- (4) UND/EERC's Notice of Motion and Motion to Compel Production of Documents Listed on James Hardie's Privilege Log, and to Recover Attorneys' Fees and Costs
- (5) UND/EERC's Memorandum of Law in Support of its Motion to Compel Production of Documents Listed on James Hardie's Privilege Log and to Recover Attorneys' Fees and Costs
- (6) [Proposed] Order on UND/EERC's Motion to Compel Production of Documents Listed on James Hardie's Privilege Log, and to Recover Attorneys' Fees and Costs
- (7) Affidavit of Sara Gullickson McGrane in Support of University of North Dakota's Motion to Declassify Attorneys' Eyes Only Designation and Motion to Compel Production of Documents Listed on James Hardie's Privilege Log

on the following persons via e-mail to the e-mail addresses listed below and thereafter at their last known addresses, by placing said envelopes with said contents in the United States Mail at Minneapolis, Minnesota:

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Lisa A. Acierno  
Lisa A. Acierno

Subscribed and sworn to before me  
this 13<sup>th</sup> day of January, 2006.

Lisa M. Flaherty  
Notary Public

